

TESTIMONY: AB-604
Assembly Energy and Utilities
January 22, 2008

Mr. Chairman, members of the committee, thank you for allowing me to testify today in support of Assembly Bill 604, otherwise referred to as the Fair Access to Networks or the FAN Bill.

First, I want to say that I am proud to represent the residents of Tiletown and the Green Bay Packers in the state Senate and I want to congratulate the Packers on an incredible season. I think I speak for everyone when I say we wish you the best of luck in the final two games of the season and the playoffs: Go Pack.

Now...I'm sure I'm not alone when I say that one of the biggest issues we've heard about recently has been the inability of fans throughout Wisconsin who have cable to be able to watch the Packers play the Cowboys. That also holds true for fans who want to watch any number of Badgers football and basketball games.

It's an issue we heard about last season when the Packers played the Minnesota Vikings and it is an issue we will continue to hear about next season as well—especially if this season any indication of the direction the Green Bay Packers are headed.

There are any number of experts from both sides here today who will be able to discuss the issue of constitutionality and how this legislation will impact their various businesses. So I want to speak primarily to the one group of people who to this point have had little voice in the ongoing dispute between the NFL Network, the Big Ten Network and the major cable companies—the fans.

My goal with this bill is quite simple: to encourage, to the best of my ability, parties on both sides of these disputes to reach an agreement so that all fans, regardless of who provides their video service, can watch all of the games played by both the Packers and the Badgers.

I understand that there was a time when all these games were available for free over the airwaves so long as you had an antennae that could get the signal. Even then, however, many fans in the northern part of the state—in the more rural areas—had difficulty getting the games and even when they did the reception was poor.

Cable television brought these games to fans around the state in a way that many were previously unable to get them. Clear video, great sound. It was a new product and people were and are willing to pay for that service. As a subscriber to Time-Warner I have repeatedly said I enjoy the service I receive and I understand the value that these new technologies provide.

But the moment cable entered the picture and took over more and more of the market, the notion of “free” ended for millions of fans. Having cable or satellite or other type of video provider became even more important with the advent of ESPN and their entrance into the market. Fans outside the “home” markets could not receive local coverage of the game so, like today, they were forced to go to a bar or restaurant or friend’s house to watch the Packers and the Badgers.

Now we have the advent of the NFL and Big Ten Networks and whether or not you agree with the direction this is all headed, I think we can agree it is not likely that this train is going to stop or reverse direction.

So if you are a fan, what do you do?

It seems to me that you can switch to satellite or AT&T or other video provider that have already reached agreements with the networks and who carry them on their equivalent of the expanded basic tier. But for many fans these are not options.

We just recently passed the Video Franchise Bill which I know many of the cable providers supported to give consumers more choices. But AT&T hasn't built out yet and not everyone is able to receive satellite. Those fans are stuck.

So, in response to the outcry we heard from fans, Representative Rhoades and I introduced this legislation as a way to hopefully resolve these types of disputes. We did this to give fans a voice.

This bill does not attempt to take sides, although I know the major cable companies are opposed to it. We don't tell them what channels to carry or where to carry them or what to charge. Instead we establish an arbitration system that allows a non-governmental arbiter to help resolve the dispute if arbitration is requested.

Now I know the arguments on both sides of this issue. The networks want as many fans to be able to view their games as possible at the lowest possible price. The cable companies argue that it is not fair that people who don't like the Packers (which I CANNOT fathom) should subsidize the fans who do. They say it is not fair and that the only fair way to offer these networks is to allow them to be put in packages that the consumer can choose to purchase. If not, they said prices would go up for all the consumers who don't want the NFL Network or Big Ten Networks.

Now, originally, I didn't want to address this argument because more than anything, like most fans, I just want this resolved so I can watch the games I want to watch-- be they Packers or Badgers-- and I want everyone else to be able to do the same.

But almost as soon as we introduced this bill Charter Communications put out a statement saying that Rep. Rhoades and I were going to raise cable rates and that they

were trying to protect their customers from having to subsidize the NFL and Big Ten Networks.

The next day, of course, Charter announced they were raising rates between 6 and 7 percent with little if any added service.

The reality of cable, satellite and other video programming is that to varying degrees subsidizing the viewing habits of others is the name of the game. Consumers who don't have children subsidize the Disney Channel for families who whose kids watch it. Other consumers subsidize the TNT network, while still others subsidize the news channels and yes, even the sports channels. The logical conclusion to this argument is the argument some have made that channels should be offered ala carte, but that's a federal issue and one that I don't think will happen anytime soon.

And I'm not saying I know the answer to these disputes. I suspect there is more at stake than we are all aware of and I can appreciate that even if I don't know or understand all the details.

The one thing I do know is that the Green Bay Packers are 12-2 and Brett Favre and his teammates are having a year no one expected. And along the way on this wonderful ride, Packers fans around the state and around the nation who subscribed to some of the biggest cable companies in the nation could not watch the biggest game of this unbelievable season from the comfort and safety of their own homes because the Networks and the major cable providers are either unwilling or unable to reach an agreement..

I know that somewhere along the way the fans caught up in this dispute have been left behind. It is not a good thing for the NFL, or the Badgers or the Big Ten, and it is certainly not good for the major cable companies. And for certain it is not good for the teams or their fans.

So if the parties involved can't find a way to resolve this, I'm going to continue to push this bill. Because I don't want the fans to have to go through this all over again next year when the Packers and Brett Favre are defending a Super Bowl title or the Badgers are headed to the National Championship or the Final Four.

Thank you.

